REMARKS

This response is intended as a full and complete response to the final Office Action mailed October 26, 2005. In the Office Action, the Examiner notes that claims 1-6, 8-19, 22 and 23 are pending, of which claims 1-6, 8-19, 22 and 23 are rejected. By this response, Applicant has amended claims 1, 8, 11, 12, 13, 14, 19 and 22.

In view of the foregoing amendments and the following discussion, Applicant submits that none of the claims now pending in the application are anticipated or obvious under the respective provisions of 35 U.S.C. §§102 and 103. Thus, Applicant believes that all of these claims are now in allowable form.

It is to be understood that the Applicant, by amending the claims, does not acquiesce to the Examiner's characterizations of the art of record or to Applicant's subject matter recited in the pending claims. Further, Applicant is not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendments.

Amendments to the Claims

By this response, Applicant has amended claims 1, 8, 11, 12, 13, 14, 19 and 22. The amendments to the claims are fully supported by the Specification, Drawings and Claims as originally filed. For example, the amendments to claims 1, 8 and 13 are supported at least by page 1, lines 18-28. The amendments to claim 11 are supported at least by originally filed claim 12. The amendments to claims 12, 19 and 22 are supported at least by page 5, lines 12-20; and page 10, line 30, to page 11, line 9.

Thus, no new matter has been added and the Examiner is respectfully requested to enter the amendments to the claims.

Objection to Claims 14-15

The Examiner has objected to claims 14-15 stating that "the phrase 'wherein said rules also define' should be replaced as -rules define.'"

In response, Applicant has amended claim 14 in a manner so that the term "said rules" in claim 15 proper antecedent basis.

Therefore, Applicant respectfully requests that the Examiner's objection be withdrawn.

35 U.S.C. §102 Rejection of Claims 1-3, 6, 8-10, 13-14, 16 and 18-19

The Examiner has rejected claims 1-3, 6, 8-10, 13-14, 16 and 18-19 under 35 U.S.C. §102(e) as being anticipated by Thomas Huston et al. (US 2002/0007402 A1, hereinafter "Thomas").

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The Thomas reference fails to disclose each and every element of the claimed invention, as arranged in claim 1.

Specifically, the Thomas reference fails to teach or suggest at least "establishing, by a cable television system operator, a resource lease with each of at least one content provider, each content provider storing at least some of a plurality of video assets within said leased resource at at least one cable television system operator location". The Thomas reference also fails to teach or suggest "fulfilling subscriber requests for available content stored at the at least one cable television system operator location, said fulfilling comprising providing said subscriber requests to said subscribers over a cable television delivery system". The Thomas reference further fails to teach or suggest "at least one of increasing and decreasing a capacity of said memory resource in response to said usage statistics".

The Thomas reference discloses a method by which content of a content provider is refreshed in a cache on a traffic server of an access provider. In the method, a difference engine detects if a newer version of content exists, and if it does, retrieves and stores the newer version in the cache and deletes the older version from the cache. However, the Thomas reference is primarily directed to providing content over the Internet. Moreover, the Thomas reference does not teach or suggest a cable television system operator or a cable television delivery system. Furthermore, the Thomas reference does not teach or suggest that the apparatuses or methods discussed in the Thomas reference can be applied to a cable television system operator, or a cable television delivery system.

Additionally, the Thomas reference does not teach or suggest increasing or decreasing the capacity of a memory resource in response to usage statistics. The Examiner alleges (emphasis added below):

> "Since the particular retrieved data content is cached in the traffic server in response to the requests, as a result, the size of the memory resource (memory portion occupied by the particular retrieved content data) is increased in response to the usage statistics (requests), and since the previous particular retrieved data content is deleted from the memory portion of the cached in response to the usage statistic (i.e. no request for the previous particular retrieved data content), as a result, the size of memory resource (portion occupied by the retrieved content) is decreased in response to the usage statistics (no requests or requests to delete)." (pages 5-6 of the 10/26/05 Office Action)

Thus, the Examiner alleges that the Thomas reference teaches increasing and decreasing the size of the memory resource in response to usage statistics, wherein the Examiner has considered the size of the memory resource to be the size of the memory portion occupied by the particular retrieved content data. However, the Applicant respectfully submits that this interpretation distorts the common meaning of the previously presented claim language. Nevertheless, the Applicant has amended the claim language to instead recite "at least one of increasing and decreasing a capacity of said memory resource in response to said usage statistics." The Thomas reference does not teach or suggest increasing or decreasing a capacity of a memory resource.

Thus, the Thomas reference does not disclose each and every element recited in claim 1. Specifically, the Thomas reference does not teach or suggest at least a cable television system operator, a cable television delivery system, and increasing or decreasing a capacity of a memory resource.

As such, Applicant submits that independent claim 1 is not anticipated and fully satisfies the requirements of 35 U.S.C. §102 and is patentable thereunder. Moreover, independent claims 8 and 13 contained substantially similar relevant limitations as those discussed above in regards to claim 1. Therefore, independent claims 8 and 13 are also not anticipated and are patentable under 35 U.S.C. §102. Furthermore, claims 2-3, 6, 10, 14, 16, and 18-19 depend, either directly from independent claims 1, 8 and 13 and recite

additional limitations thereof. As such and at least for the same reasons as discussed above, Applicant submits that these dependent claims are also not anticipated and fully satisfy the requirements of 35 U.S.C. §102 and are patentable thereunder. Therefore, Applicant respectfully requests that the Examiner's rejections be withdrawn.

35 U.S.C. §103 Rejection of Claims 15 and 23

The Examiner has rejected claims 15 and 23 under 35 U.S.C. §103(a) as being unpatentable over Thomas as applied respectively to claims 14 and 1 above, and further in view of Hokanson (U.S. 6,094,680, hereinafter "Hokanson"). Applicant respectfully traverses the rejection.

Claims 15 and 23 depend directly or indirectly from independent claims 1 and 13. Moreover, for the reasons discussed above with respect to the Examiner's § 102 rejection, the Thomas reference fails to teach or suggest the Applicant's claimed invention as a whole as recited in independent claims 1 and 13. Accordingly, any attempted combination of the Thomas reference with any other additional references in a rejection against the dependent claims would still result in a gap in the combined teachings in regard to the independent claims. As such, applicant submits that dependent claims 15 and 23 are patentable under 35 U.S.C. §103.

Therefore, the applicant respectfully requests that the Examiner's rejection of claims 15 and 23 be withdrawn.

35 U.S.C. §103 Rejection of Claim 22

The Examiner has rejected claim 22 under 35 U.S.C. §103(a) as being unpatentable over Thomas as applied to claim 1 above, and further in view of Candelore (U.S. 6,057,872, hereinafter "Candelore"). Applicant respectfully traverses the Examiner's rejection.

Claim 22 depends directly from independent claims 1. Moreover, for the reasons discussed above with respect to the Examiner's § 102 rejection, the Thomas reference fails to teach or suggest Applicant's claimed invention as a whole as recited in independent claim 1. Accordingly, any attempted combination of the Thomas reference with any other additional references in a rejection against the dependent claims would still result in a gap

in the combined teachings in regard to the independent claim. As such, applicant submits that dependent claim 22 is patentable under 35 U.S.C. §103.

Therefore, for at least this reason, the Applicant respectfully requests that the Examiner's rejection of claim 22 be withdrawn.

Additionally regarding claim 22, the Thomas and Candelore references, alone or in combination, fail to teach or suggest all the limitations recited in claim 22, and thus fail to teach or suggest the Applicant's invention as a whole. To establish prima facie obviousness of the claimed invention, all the claim limitations must be taught or suggested by the prior art.

Specifically, the Thomas and Candelore references fail to teach or suggest at least "defining rules for said video assets according to said content provider, said rules comprising pricing rules for said video assets." The Thomas and Candelore references also fail to teach or suggest "providing said rules from said content provider by a signal path to a controller at said cable television system operator location."

The Examiner alleges (emphasis added below):

> "...Thomas further discloses 'defining rules for said content assets according to at least one of said service provider or said content provider' is met by defining rules (for example, oldest or least recently used content is deleted first) according to agreement between access provider and content provider upon a particular approach to be used when the allocated space is insufficient to store all the content of the content provider (par. 0063)" (pages 14 and 15 of the 10/26/05 Office Action)

However, the Thomas reference does not teach or suggest that the content provider defines rules comprising pricing rules, as recited in claim 22 as amended. Furthermore, the Thomas reference does not teach or suggest that the content provider provides the pricing rules by signal path to a controller at a cable television system operator location.

The Candelore reference fails to bridge the substantial gap between the Thomas reference and Applicant's invention, in regards to the elements recited in claim 22. The Candelore reference discloses that "[d]igital coupons are selectively transmitted in a communication network to subscriber terminals for promotional purposes" (Abstract). Regarding the Candelore reference, the Examiner alleges (emphasis added below):

> "Candelore discloses the service providers and advertisers define promotion (such as coupon/credit) and multiplexes the digital coupon information along with the program service data as defined by preconditions of the digital coupon information (col. 3, lines 26-39; col. 7, lines 19-29; col. 10, lines 54-62) reads on the claimed limitation of rules for content assets according to at least one of the service provider or the content provider, the rules defining promotion and packaging of the content assets." (page 15 of the 10/26/05 Office Action)

Thus, the Examiner alleges that the Candelore reference discloses that the service providers and advertisers define the digital coupons as discussed in the Candelore reference. However, the applicant respectfully disagrees. The Candelore reference is principally concerned with the service provider providing the digital coupon to the subscriber. The Candelore reference does not disclose that the service provider and an advertiser jointly, or an advertiser alone, define the digital coupon. The Candelore reference only discusses the role of advertisers in regards to obtaining in analyzing terminal usage data. For example, the Candelore reference discloses (emphasis added below):

> "To allow program service providers and advertisers to obtain and analyze the terminal usage data, a usage pattern accounting center which is associated with a network controller may be provided. The usage pattern accounting center can receive usage pattern data from the terminals via a communication link, such as an upstream path in the channel over which the program services are transmitted, or a telephone network. This is especially useful for determining the viewership of commercials or infomercials wherein the cost of running the ad in a program is oftentimes a function of the estimated viewing audience." (column 4, lines 5-15)
>
> and
>
> "Such usage pattern data provides valuable information for program service providers and advertisers which can be used to better target individual subscribers and groups of subscribers with products and services with which they are likely to be interested. Moreover, the usage pattern data allows the interested parties (e.g., promoters and advertisers) to determine the effectiveness of various promotions. For example, when the digital coupon information provides a one-half price PPV program to subscribers who infrequently order PPV, the success rate of the program can be

> determined from the usage pattern data at the function 125." (column 6, lines 51-61)

However, the Candelore reference does not disclose that an advertiser defines the digital coupon.

Moreover, the Candelore reference also does not teach or suggest that an advertiser provides the definition of the digital coupon to the service provider by a signal path coupled to a controller at the service provider.

Thus, the Thomas and Candelore references, alone or in combination, fail to teach or suggest all the limitations recited in claim 22, and thus fail to teach or suggest the Applicant's invention as a whole.

Therefore, for these reasons as well, dependent claim 22 is non-obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

35 U.S.C. §103 Rejection of Claims 4-5 and 11-12

The Examiner has rejected claims 4-5 and 11-12 under 35 U.S.C. §103(a) as being unpatentable over Thomas as applied to claim 1 or claim 8 above, and further in view of Carlin et al. (U.S. 6,119,152, hereinafter "Carlin"). Applicant respectfully traverses the rejection.

Claims 4-5 and 11-12 depend directly or indirectly from independent claims 1 and 8. Moreover, for the reasons discussed above with respect to the Examiner's § 102 rejection, the Thomas reference fails to teach or suggest Applicant's claimed invention as a whole as recited in independent claims 1 and 8. Accordingly, any attempted combination of the Thomas reference with any other additional references in a rejection against the dependent claims would still result in a gap in the combined teachings in regard to the independent claims. As such, applicant submits that dependent claims 4-5 and 11-12 are patentable under 35 U.S.C. §103.

Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

35 U.S.C. §103 Rejection of Claim 17

The Examiner has rejected claim 17 under 35 U.S.C. §103(a) as being unpatentable over Thomas as applied to claim 13 above, and further in view of Martin et al. (U.S. 6,606,607, hereinafter "Martin"). Applicant respectfully traverses the rejection.

Claim 17 depends directly from independent claim 13. Moreover, for the reasons discussed above with respect to the Examiner's § 102 rejection, the Thomas reference fails to teach or suggest Applicant's claimed invention as a whole as recited in independent claim 13. Accordingly, any attempted combination of the Thomas reference with any other additional references in a rejection against the dependent claims would still result in a gap in the combined teachings in regard to the independent claim. As such, applicant submits that dependent claims 17 is patentable under 35 U.S.C. §103.

Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant believes that this application is in condition for allowance. Entry of this amendment, reconsideration of this application, and allowance are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Stephen Guzzi at (732) 383-1405 or Eamon J. Wall, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 12/7/05

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